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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

RAJGURU, UMAKANT K

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/004,978

Applicant(s)

SHIPING, MA

Examiner

Umakant K. Rajguru

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.


### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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1. A response has been filed on April 26, 2004.
2. Claims being examined are still 1-21.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 2, 4-11, 16-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 6,184,312) in view of Fuhr et al (US 5,658,974).
5. Claims 3 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 6,184,312) in view of Fuhr et al (US 5,658,974) as applied to claims 1 and 18 resp. above, and further in view of JP 58,076,447 (Abstract in English).
6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 6,184,312) in view of Fuhr et al (US 5,658,974) as applied to claim 1 above, and further in view of Wittmann et al (US 5,030,675).
7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 6,184,312) in view of Fuhr et al (US 5,658,974) as applied to claim 1 above, and further in view of Umeda et al (US 5,449,710).
8. Claim 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamamoto et al (US 6,184,312) in view of Fuhr et al (US 5,658,974 as applied to claim 1 above, and further in view of Choi et al (US 5,087,521) or Narushima et al (US 3,948,836).

Please refer to prior Office actions for substance of these rejections.

9. Applicant's arguments filed on April 26, 2004 have been fully considered but they are not persuasive.

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On page 2 (of above response) the applicant's arguments that "siloxane of Fuhr is broader than that of Yamamoto" and that "siloxanes of Fuhr may not be as effective as flame-retardants etc. etc" are not persuasive. Fuhr is a secondary reference relied upon for its teaching of phosphorus compounds for imparting flame retardancy. It is therefore immaterial whether other ingredients of Fuhr's composition such are siloxanes are same as or different from those of Yamamoto's composition. Fuhr's compositions do not have to be directed to any optical components

Applicant's statement (on same page) that "there is no way to predict if the same synergism will exist between the phosphoric esters of Fuhr and siloxanes of Yamamoto, (as that which exists between phosphoric esters of Fuhr and siloxanes of Fuhr)" seems to be based only on assumption/s. There is no validity for such a statement unless established by some experimental data. Contrary to what the applicant infers, the examiner is of the opinion that, unless proved otherwise, one of ordinary skill in the art will be motivated to use phosphoric esters of Fuhr in the composition of Yamamoto, without any risk of losing the beneficial qualities of composition of Yamamoto but on the contrary with the expectation of gaining few additional benefits.

Prior art therefore renders instant claims prima facie obvious.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not


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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Umakant K Rajguru whose telephone number is 571-272-1077. The examiner can normally be reached on Monday thru Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on 571-272-9306. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Rajguru/LR/dh  
August 20, 2004

  
James J. Seidleck  
Supervisory Patent Examiner  
Technology Center 1700